IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 19442 of 2005

For Approval and Signature:

HONOURABLE MR.JUSTICE K.M.MEHTA

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1	Whether Reporters of Local Papers may be allowed to see the judgment ? **-No.**
2	To be referred to the Reporter or not ? **-No.**
3	Whether their Lordships wish to see the fair copy of the judgment ? **-No.**
4	Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ? **-No.**
5	Whether it is to be circulated to the civil judge ? **-No.**

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RAJESHBHAI RAMESH CHANDRA TIWARI (BRAHMAN) - Petitioner(s)

Versus

COMMISSIONER OF POLICE &2 - Respondent(s)

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Appearance :

MS BANNA S DUTTA for Petitioner(s) : 1,

RULE SERVED BY DS for Respondent(s) : 1 - 2.

GOVERNMENT PLEADER for Respondent(s) : 3,

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CORAM : HONOURABLE MR.JUSTICE K.M.MEHTA

Date : 17/11/2005

ORAL JUDGMENT

1. Rajeshbhai Ramesh Chandra Tiwari (Brahman), petitioner has filed petition of habeas corpus under Article 226 of the Constitution of India praying for quashing and setting aside the order of detention dated 13/9/2005 passed by the Commissioner of Police, Ahmedabad City, respondent no.1 herein, under the provisions of Section 2(b) of the Gujarat Prevention of Anti-Social Activities Act, 1985 (herein after referred to as 'the Act'). Petition has been filed on 21/9/2005.

2. My brother Mr. Justice A.S.Dave, has issued rule on 23/9/2005 and therefore, matter has been placed for final hearing in this Court.

3. Ms.Banna Dutta, learned advocate for the petitioner has invited my attention to the order of detention dated 13/9/2005 as well as order of arrest and also grounds of detention supplied by the Commissioner of Police, Ahmedabad, detaining authority dated 13/9/2005.

1.From the grounds stated, it reveals that offence is registered against the detenue before the South Prohibition Station, Ahmedabad City vide CR No.1542 of 2005 for the offence punishable under Section 66(1) (B), 65-I, 81 and 116(1)B of the Bombay Prohibition Act on 28/8/2005, wherein 156 bottles of liquor valued at Rs.58,560/- is recovered from the detenue. It is also stated that petitioner is a bootlegger under the provisions of the Act and the order of detention has been passed as the activities of petitioner is likely to disturb the public order. No statement under Section 9(2) has been recorded.

2.5. The learned advocate for the petitioner has relied upon following submissions:

1.I have also considered the facts and circumstances of the case and have also considered the judgment in the case of Piyush Kantilal Mehta (supra). I have also considered the judgment and order in the case of Rajubhai Pratapbhai Panpatil vs. Commissioner of Police and others in Special Civil Application No.20420 of 2005 and another judgment in the case of Nepalsing Bodansing Shekhavat v. Police Commissioner, Vadodara in Special Civil Application No.19946 of 2005 decided by this Court (Coram:K.M.Mehta, J.) on 16/11/2005.

2.Mr.N.D.Gohil, learned Asst. Public Prosecutor appears on behalf of the State as well as Detaining Authority. He has tried to support the order of detention on the basis of grounds supplied by the detaining authority.

3.I have considered the submissions in this behalf. I have considered various authorities in this behalf. On the ground of public order for which I have already decided and relied upon the case of Piyush Kantilal Mehta (supra) and also Special Civil Application No.20420 of 2005 (supra). After going through the same, I am of the view that petition is allowed. The order of detention is quashed and set aside. The deteune, Rajeshbhai Ramesh Chandra Tiwari (Brahmin) is ordered to be set at liberty forthwith if he is not required in connection with any other case. Rule is made absolute accordingly with no order as to cost. Direct service is permitted.

(K.M.MEHTA, J.)

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